IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SIXTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

WRIT PETITION NO : 14598 of 2005

Between:

Amtul Jameel Basheeruddin W/o Md. Basheeruddin,
R/o H. No. 17-3-207/10, Murtuzanagar, Yakutpura, Hyderabad

..... PETITIONER

AND

1 District Collector, Ranga Reddy District Hyderabad
2 The Mandal Revenue Officer, Moinabad, Ranga Reddy District

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus, or any other appropriate Writ, order or direction, declaring the proposed action of the respondents in trying to dispossess the petitioner from the schedule land measuring 0-20 guntas in Sy. No. 510/10 situated at Kanakamamidi Village, Moinabad Mandal, Ranga Reddy Districtand trying to demolish the constructions therein as illegal, arbitrary and violative of principles of natural justice and for a consequential order directing the respondents to drop all further proceedings including dispossession and demolition pending appeal before 1st respondent and pass such other order or orders as may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner:MR.CH.DHANAMJAYA

Counsel for the Respondents: GP FOR REVENUE

The Court made the following:

O R D E R:

The writ petition is filed under Article 226 of the Constitution of India, seeking a Mandamus declaring the proposed action of the respondents in trying to dispossess the petitioner from the schedule land admeasuring Ac.0.20 guntas in Sy.No.510/10 situated at Kanakamanidi village, Moinabad Mandal, R.R.District and trying to demolish the constructions therein as illegal and arbitrary.

It is stated that the petitioner is the absolute owner of the land in Survey No.375/E2 and 375/EE/2 admeasuring Ac.0-01-1/2 and Ac.3.04 guntas situated in Kanakamamidi village of Moinabad Mandal, R.R.District. Accordingly, her name was mutated in the Revenue Records and was also issued Pattedar pass books and title deeds in this regard. She constructed a house in the said land after obtaining necessary permission from the Panchayat. It is also stated that she made an application

dated 27-08-2004 to the 2nd respondent-Mandal Revenue Officer, for conducting survey with regard to boundaries of the said land. A Notice, dated 25-01-2005, under Section 7 of Land Encroachment Act has been issued by the 2nd respondent-Mandal Revenue Officer, stating that the petitioner is in occupation of the Government land, and the said notice was served on the petitioner. In response to the said notice, the petitioner submitted her detailed explanation denying all the allegations made therein. She stated in the reply notice that she purchased the schedule land under a registered sale deed and also constructed a terraced house with all necessary connections. But the 2nd respondent-Mandal Revenue Officer, without considering her case, passed final order dated 28-03-2005. Having aggrieved by the same, the petitioner preferred an appeal before the 1st respondent-District Collector as well as she made an application dated 20-06-2005 before the 1st respondent-District Collector requesting to assign the alleged encroached land on payment of market value. While so, the staff of the 2nd respondent's office visited the schedule land on 05-07-2005 and started to take measurement of the same stating that it was Government land for which, she raised an objection stating that ever since she purchased the property, she has been in continuous enjoyment and possession of the property without any obstruction and that she preferred an

appeal as well as made an application dated 20-06-2005 before the 1st respondent-District Collector, which are pending for consideration. The grievance of the writ petitioner is that pending statutory appeal, evicting her from the schedule land by the 2nd respondent-Mandal Revenue Officer is illegal and arbitrary. Hence this writ petition.

Heard both sides.

I have perused the material available on record.

Admittedly, the petitioner preferred a statutory appeal before the 1st respondent-District Collector as provided under the Act. Therefore, when pending statutory appeal for consideration, it is not open for the 2nd respondent-Mandal Revenue Officer, to evict the petitioner from the schedule land.

The learned Government Pleader appearing for the respondents submitted that by virtue of the impugned order, the Government has taken possession of the land.

On the other hand, the learned counsel for the petitioner submitted that the petitioner could not take possession of the schedule land without expiry of the appeal period.

Considering the facts and circumstances of the case, and in view of the submissions made by both the parties, I deem to dispose of the writ petition at the stage of admission directing the 1st respondent-District Collector, to dispose of the statutory appeal filed by the petitioner in accordance with law after giving opportunity to the parties, within eight weeks from the date of receipt of a copy of the order.

As far as the possession of the schedule land is concerned, pending consideration of the statutory appeal, the respondents are directed to maintain status-quo and further not to change the nature of the land or to create any third party interest over the scheduled land.

With the above direction, the writ petition is disposed of. No costs.

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06-07-2005

Mjl/*

To,

1 The District Collector, Ranga Reddy District Hyderabad
2 The Mandal Revenue Officer, Moinabad, Ranga Reddy District.

3. 2 CCs to G.P. for Revenue, High Court Buildings, Hyderabad.

4. 2 CD copies

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